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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/738,194	12/15/2000	Emmanuel Vyers	NCP3-E42	1141
7:	590 07/15/2003			
Karl M. Steins			EXAMINER	
Steins & Associates Suite 120			KRISHNAMURTHY, RAMESH	
2333 Camino del Rio South San Diego, CA 92108			ART UNIT	PAPER NUMBER
	7		3753	111
			DATE MAILED: 07/15/2003	104

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary Examiner	<u> </u>	Applicati n No.	Applicant(s)			
Examiner Ramssh Krishnarruthy 3753 - The MAILING DATE of this communication appears on the cover sheet with the correspondence address - Period f r Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ③ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be available under the promisions of 37 CPR 1.136(b). In no event, however, may a reply be timely filed If the period for may specified above, the measurem statistical prior of vill apply and vivil reply to be timely filed. If the Deficial for may be available under the promision of 37 CPR 1.136(b). In no event, however, may a reply be timely filed If the period for may be profited above, the measurem statistical prior vill apply and vivil reply to 100 (MAY 170 time) to mailing deto of this communication. If the period for may specified above, the measurem statistical prior vill apply and vivil reply sold village to 100 (MAY 170 time). If the period for may be profited above, the measurem statistical prior village to 101 time to 101 time. If the period for may be profited above, the measurem statistical prior village to 101 time to 101 time. If the period for may be profited above, the measurem statistical prior village to 101 time. Any may frece may be filed the file the maining date of this communication, even if thresh filed, may reduce a narround patient term adjustment. Any may frecent by the 101 time than them medial date of this communication, even if thresh filed, may reduce a narround patient term adjustment. Application is incordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 9_12_14_11_19_20_2_23_2 is/are epending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5b Claim(s) 9_11_24_11_19_20_2_2_2_2_2_2_2_2_2_2_2_2_2_2_2_2_2_2	•	09/738,194	VYERS ET AL.			
The MALING DATE of this communication appears on the cover sheet with the correspondence address - Period f Repty A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MALINO DATE OF THIS COMMUNICATION. Eduración of time may be available under the procisions of 3 CPR 1.30(a), in no event, however, may a reply be timely flied under the procisions of 3 CPR 1.30(a), in no event, however, may a reply be timely flied under the procisions of 3 CPR 1.30(a) in no event, however, may a reply be timely flied under the procisions of 3 CPR 1.70(b) in the communication of this process of the supplication to become ABANDONED (S) U.S.C § 13(3). **Balance of the process of the process of the process of the process of the communication of the communication. Process of the communication of the communication of the communication. **Process of the process o	Offic Action Summary		Art Unit			
Period f r Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Ederacions of time may be available undoor the provisions of 37 CFR 1.35(a). In no event, however, may a reply be timely filled Ethorison of treely specified above, the maximum statutory protoid will apply unto value apple SDX (0) MoNTHS from the mailing date of time of the provision of the reply specified above, the maximum statutory protoid will apply and value apple SDX (0) MoNTHS from the mailing date of time communication. If the protoid of the reply specified above, the maximum statutory protoid will apply and value apple SDX (0) MoNTHS from the mailing date of time communication. It is a specified above, the maximum statutory protoid will apply and value apple SDX (0) MoNTHS from the mailing date of time communication. Any poly researced plane of time the thin time mornish and the communication, even if timely filled, may roduce any cannet planet term adjustment. See 37 CFR 1.704(b). Status 1) □ Responsive to communication(s) filled on 168 May 2003. 2a) □ This action is FINAL. 2b) □ This action is non-final. 3) □ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parts Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) □ Claim(s) = 12.14 - 17.19 20.22 - 32 is/are pending in the application. 4a) □ Claim(s) = 12.14 - 17.19 20.22 - 32 is/are rejected. 7) □ Claim(s) = 21.214 - 17.19 20.22 - 32 is/are rejected. 7) □ Claim(s) = 21.214 - 17.19 20.22 - 32 is/are rejected. 7) □ Claim(s) = 21.214 - 17.19 20.22 - 32 is/are rejected. 7) □ The drawing(s) filled on □ is/are: a) □ accepted or b) □ betted to by the Examiner. Application Papers 9) □ The specification is objected to by the Examiner. Application Papers 10 □ The drawing(s) filled on □ is/are: a) □ accepted or by the Examiner. 11 □ The proposed drawings are required in reply to this Office actio		Ramesh Krishnamurthy	3753			
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE § MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Etatescience time may be withered and the provision of 3° CPR 1.356(j). In ne event, however, may a reply be timely filed Etatescience time may be withered beaution of 3° CPR 1.356(j). In ne event, however, may a reply be timely filed If the period for reply specified above is listed bath thinky (30) days, a reply vithin the statefor reply supported for reply specified above is listed bath thinky (30) days, a reply vithin the statefor reply supported for reply vithin the state retarded period for reply vithin the state of reply vithin the state of replace to reply vithin the state of replace to reply vithin the state of replace to replace the replace of replace and vithin the replace of the communication. Filiation to replace the replace of replace the replace of the communication of the communication. Filiation to replace the replace of the replace of the communication of the communication. This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 9-12, 14-17 and 19-32 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5] Claim(s) 9-12, 14-17, 19, 20, 22-32 is/are rejected. 7] Claim(s) 9-12, 14-17, 19, 20, 22-32 is/are rejected. 7] Claim(s) 9-12, 14-17, 19, 20, 22-32 is/are rejected. 7] The proposed drawing subject to restriction and/or election requirement. Application Papers 9 The specification is objected to by the Examiner. Application Papers 10) The drawing(s) filed on is/are: a) cocepted or bip objected to by the Examiner. Application proved, corrected drawings are required in reply to this Office action. 12) The proposed drawings correction filed on is/are: a) approved by the Examiner. 13 Acknowle	The MAILING DATE of this communication appears on the cover sheet with the correspondence address					
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1) Responsive to communication(s) filed on <u>06 May 2003</u> . 2a) This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayie</i> , 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 9 - 12 _ 14 - 17 and 19 - 32 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) Claim(s) is/are allowed. 6) Claim(s) 9 - 12 _ 14 - 17, 19 _ 20, 22 - 32 is/are rejected. 7) Claim(s) are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are allowed. 4) The proposed drawing correction filed on is: a) approved by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). 11) The proposed drawing correction filed on is: a) approved by disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action. 12) The oath or declaration is objected to by the Examiner. Priority under 35 U.S.C. §§ 119 and 120 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). *See the attached detailed Office action for a list of the certified copies not received. 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application). a) The translation of the foreign language provisional application has been received. 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 120 a	THE MAILING DATE OF THIS COMMUNICAT - Extensions of time may be available under the provisions of 37 after SIX (6) MONTHS from the mailing date of this communication of the period for reply specified above is less than thirty (30) day of the period for reply is specified above, the maximum statuton Failure to reply within the set or extended period for reply will, it any reply received by the Office later than three months after the earned patent term adjustment. See 37 CFR 1.704(b).	FION. CFR 1.136(a). In no event, however, may a retion. s, a reply within the statutory minimum of thirty of period will apply and will expire SIX (6) MONT by statute, cause the application to become AB.	pply be timely filed y (30) days will be considered timely. THS from the mailing date of this communication. ANDONED (35 U.S.C. § 133).			
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This office action is responsive to amendment filed 05/06/2003.

Claims 9 - 12, 14 - 17 and 19 - 32 are pending.

1. The following suggestions are offered to the applicant to place the claims in

better form: In claims 12 and 17, it is suggested that "comprises a motor drive attached

to a reduction gear means "be replaced with - - comprises a reduction gear means

attached to the motor drive -- to avoid a potential double inclusion of "a motor drive".

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.

Patentability shall not be negatived by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of

the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the obligation

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g)

prior art under 35 U.S.C. 103(a).

4. Claims 9 – 12, 14 – 17, 19, 20 and 22 – 32 are rejected under 35 U.S.C. 103(a)

as being unpatentable over the prior art cited by the applicant on pages 2 - 8 of the

specification and in Figs. 1 – 3 in view of WO 97/16777.

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The prior art cited by the applicant on pages 2 - 8 of the specification and in

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Figs. 1-3 anticipates the method recited in claims 9-12, 14-17, 19, 20 and 22-32

with the exception of having a valve position feedback signal.

WO 97/16777 discloses a pressure control apparatus (See Abstract and Fig. 1)

in which a position sensor (22) is used to provide a feedback signal comprising data

representing position of a motor drive (comprising coupling between the motor (40) and

the rotary valve (14)) actuating the valve for the purpose of providing an indication of the

position of the valve thereby improving the accuracy of the valve control.

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to have incorporated a position sensor in the prior-art arrangement

disclosed by the applicant for the purpose of providing an indication of the position of

the valve thereby improving the accuracy of the valve control. In the prior-art

arrangement disclosed by the applicant only an indirect inference of the valve position

was possible via the measured pressure each time the valve was moved to a new

position. Having a position sensor connected to the motor drive actuating the valve

would provide a direct indication of the valve position thereby improving the overall

efficacy of pressure/flow control.

5. Claim 21 is objected to as being dependent upon a rejected base claim, but

would be allowable if rewritten in independent form including all of the limitations of the

base claim and any intervening claims.

6. Regarding claim 23, it is noted that as amended, claim 23 depends from claim 20

(rather than from claim 21) and stands rejected as set forth above.

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Response to Argum nts

7. Applicant's arguments with respect to claims 9 – 12, 14 – 17 and 19 - 32 have

been considered but are moot in view of the new ground(s) of rejection. Similarly, the

declaration by David Kruse under 37 CFR 1.132 filed 05/06/2003 has been rendered

moot in view of the new ground(s) of rejection set forth above.

8. The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure. Wailes et al. discloses a pressure based flow control system

having valve position feedback as well. Potter et al. discloses a pressure regulator.

Eckardt et al. discloses means for regulating pressure in a chamber.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramesh Krishnamurthy whose telephone number is (703) 305 - 5295. The examiner can normally be reached on Monday - Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John A. Rivell, can be reached on (703) 308 - 2599. The fax phone number for the organization where this application or proceeding is assigned is (703) 872 – 9302 and for after-final communications, the fax phone number is (703) 872 9303.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308 - 0861.

Ramesh Krishnamurthy Examiner Art Unit 3753 July 9, 2003

/ JUHN RIVELL
PRIMARY EXAMINER
ART UNIT 347